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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,956	12/10/2001	David A. Tirrell	110197.403	2956

500 7590 06/27/2007  
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVE  
SUITE 5400  
SEATTLE, WA 98104

EXAMINER
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ROOKE, AGNES BEATA

ART UNIT	PAPER NUMBER
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1656

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/015,956	Applicant(s) TIRRELL, DAVID A.	
	Examiner Agnes B. Rooke	Art Unit 1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-5, 17, 18 and 56-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3, 4, 17, 18, 57, 60, 62 is/are allowed.
- 6) ☒ Claim(s) 5, 56, 58, 59, 61 and 63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/03/2007 has been entered.

The amendments to the claims filed on 04/03/2007 have been acknowledged.

### ***Status of Claims***

Claims 1, 3-5, 17, 18, and 56-63 are pending and under consideration.

Claims 2, 6-16, and 19-55 are canceled.

### ***Priority***

This application claims priority to 60/254,516 filed on 12/08/2000.

### ***IDS***

No new IDS was submitted with the RCE.

### ***Applicants' Arguments and Examiner's Response***

Applicants addressed the rejection of claims 1 and 57 under 35 USC 102(e) over the U.S. Patent 6,090,911 by Petka et al., and stated that they amended the

claims to remove the rejected subject matter from claims 1 and 3 and combined claims 57 and 60 with the objected claim 4.

Examiner responds that the rejection of claims 1 and 57 under 35 U.S.C. 102(e) is withdrawn in view of the aforementioned amendments to the claims.

Examiner also review the amended claim 60 and new claims 62-63 in view of the U.S. patent 6,090,911 by Petka et al. and decided not to make the rejection over the prior art because Applicants included a limitation that stated "*wherein the polyanionic domain contains 10 to 30 anionic amino acid residues*" and this limitation does not read over invention of Petka et al.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 5, 56, 58, 59, 61, and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "aspartic acid" where in reference to claim 1, since there is insufficient antecedent basis for this limitation in the claim because the Asp is not included in the sequence of claim 1.

Claim 58 recites the limitation "aspartic acid" where in reference to claim 3, since there is insufficient antecedent basis for this limitation in the claim because the Asp is not included in the sequence of claim 3.

Claim 59 recites the limitation "glutamic acid" where in reference to claim 57, since there is insufficient antecedent basis for this limitation in the claim because the Glu is not included in the sequence of claim 57.

Claim 61 recites the limitation "glutamic acid" where in reference to claim 60, since there is insufficient antecedent basis for this limitation in the claim because the Glu is not included in the sequence of claim 60.

Claim 63 recites the limitation "aspartic acid" where in reference to claim 62, since there is insufficient antecedent basis for this limitation in the claim because the Asp is not included in the sequence of claim 62.

Claim 56 is also indefinite because the Applicants claim "*A plurality of fusion proteins of claim 1, 3, 57, 60 and 62*" without any essential structural cooperative relationships of elements or the necessary structural connections. The claim is indefinite since examiner cannot envision the structural relation of the structure whether the sequences are in congregate or in a liner fashion or just in an aggregate without any defined structural organization.

### ***Conclusion***

Claims 1, 3, 4, 17, 18, 57, 60, and 62 are allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agnes Rooke whose telephone number is 571-272-2055. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Art Unit: 1656

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

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KAREN COCHRANE CARLSON, PH.D  
PRIMARY EXAMINER